

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103**

SUBJECT: Request for a RCRA Subtitle C Civil Complaint against
Sunoco, Inc.
Marcus Hook Refinery
Marcus Hook, Pennsylvania 19061-0426

FROM: Donald J. Lott, Chief
RCRA Compliance and Enforcement Branch (3WC31)

THRU: Mary B. Coe, Chief
Waste and Chemical Law Branch (3RC30)

TO: Joseph Lisa, Attorney
Waste and Chemical Law Branch (3RC30)

On September 22, 1999, the EPA conducted a Compliance Evaluation Inspection at SUNOCO, Inc. Marcus Hook Refinery. After reviewing all the available information, RCRA Subtitle C violations were found during the inspection. Enclosed are a concurrence request, and supporting documents. If you have any questions on the subject matter, please contact José J. Jiménez at 4-2148.

ENFORCEMENT CONFIDENTIAL
REQUEST FOR CONCURRENCE - CASE ISSUANCE

Respondent: Sunoco, Inc.
Marcus Hook Refinery
West Delaware Avenue and Green Street
Marcus Hook, Pennsylvania 19061-0426

EPA ID No. PAD980550594
SIC Code: 2911

Headquarter: SUNOCO, Inc. (R&M)
Ten Penn Center
1801 Market Street
Philadelphia, Pennsylvania 19103

I. Regional Contacts:

Case Developer: José J. Jiménez
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Team Leader : Ken J. Cox
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II. Description of Respondent:

Sunoco, Inc. Marcus Hook Refinery ("Sunoco") has been in the market since 1902. The facility can process 175,000 barrels a day of crude oil into fuels, including gasoline, aviation fuel, kerosene, heating oil, residual fuel, propane and butane and petrochemicals. The major petrochemicals are benzene, toluene, xylene, cyclohexane, propylene, ethylene, and ethylene oxide; these are sold to chemical companies (See Document No. 4).

Sunoco is headquartered in Philadelphia, Pennsylvania with Mr. John G. Drosdick as the present Chairman, Chief Executive Officer & President of Sunoco, Inc. (R&M). Sunoco, Inc. (R&M) operates five refineries in the United States with approximately 730,000 barrels per day of crude oil processing capacity. The company markets gasoline under the Sunoco brand in 17 states from Maine to Virginia and west to Indiana; sells lubricants and petrochemicals worldwide; operates petroleum and crude oil pipelines and terminals; produces nearly two million tons per year of metallurgical-grade coke and employs approximately 10,000 employees (See Document No. 5).

According to the Dun and Bradstreet report , Document No. 5, Sunoco employs 250 people in Marcus Hook. According to the RCRIS Report (Document No. 14), the facility is an LQG ("large quantity generator") and has a Storage RCRA permit.

Sunoco operates a storage area under a RCRA Hazardous Waste Storage and Treatment Permit No. PAD980550594. This permit was issued by the Commonwealth of Pennsylvania on July 6, 1990. According to Mr. Paul Jardel, PADEP, the most recent modification to the permit was dated October 25, 1999. As of May 2, 2000, the new permit renewal application is under review by PADEP. For copy of the Hazardous Waste Storage and Treatment Permit No. PAD980550594 and modification see Document No. 3.

Sunoco has been RCRA inspected twelve (12) times since 1995 to September 22, 1999. As a result of the inspections, the Pennsylvania Department of Natural Protection ("PADEP") has issued six (6) Notice of Violations (NOVs). Some of the violations cited in these NOVs are: The gate of the hazardous waste storage area was not secured, hazardous waste containers were open, no accumulation start date, and failure to label or mark the words, "Hazardous Waste" on hazardous waste containers. Training records not completed and containers holding hazardous waste not in good condition (See Document No. 14).

III. Nature of Violations with Reference Numbers of Supporting Documents:

On September 22, 1999, the U.S. Environmental Protection Agency, Region III ("EPA") conducted a joint Compliance Evaluation Inspection ("CEI") with PADEP under the Pennsylvania Solid Waste Management Act (SWMA), as amended, 35 P.S. §§6018.101 - 6018.1003, and the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. Sections 6901 et seq. Based on that inspection and/or review of other pertinent information, EPA has determined that Sunoco is violating regulations promulgated under the Pennsylvania SWMA and RCRA. PADEP was notified of this coming action on April 14, 2000 (see Document No. 2). On July 14, 2000, an NOV was issued by the RCRA Compliance and Enforcement Branch for violations of the RCRA Permit requirements and violations of the management of containers requirements detected during the September 22, 1999 inspection (See Document No. 6). On the same date EPA issued a information request letter to the facility concerning the management of three containers observed by the EPA inspector at the Auto Lab area (See Document No. 7). On a letter dated August 7, 2000, Sunoco replied to the NOV (See Document No. 8). On August 16, 2000, Sunoco answered the information request letter (See Document No. 9).

1. Violation of Permit Requirements - Security Requirements -Hazardous Waste Storage and Treatment Permit No. PAD980550594

According to Part II, Section C of the Hazardous Waste Storage and Treatment Permit No. PAD980550594, SUNOCO shall comply with the security provisions of 25 Pa. Code §75.264(d)(2) and (3). The owner or operator facility shall prevent unknowing entry, and minimize the possibility for unauthorized entry to persons or livestock onto the active portions of the facility. Artificial or natural barrier, if approved by the PADEP, which completely surrounds the active portion of the facility according to 25 Pa. § 75.264(d)(2) [now 25 PA § 264.14] (40 C.F.R. § 264.14(b)(2)(i).

At the time of the inspection on September 22, 1999, the EPA inspector observed approximately 30 feet of the fence surrounding the area had been knocked down at the greater than 90-day storage area, see Photos Nos. 6 to 8. Sunoco failed to repair the fence to prevent entry of persons onto the permitted RCRA storage area. According to Sunoco, 492 linear feet of fence were in the process to be fixed by the facility¹ (See Document No. 8). Evidence: See page 3, and Photo Nos. 6 to 8 of Document No. 1 and page 1 of Document No. 8.

Failure to provide a fence in good condition to the greater than 90-day storage area is a violation of security requirements under 25 Pa. § 75.264(d)(2) [now 25 PA § 264.14] (40 C.F.R. § 264.14(b)(2)(i)). By violating the Security requirements, SUNOCO violated Part II, Section C of the Hazardous Waste Storage and Treatment Permit No. PAD980550594.

2. Violation of Permit Requirements - Containment Requirements -Hazardous Waste Storage and Treatment Permit No. PAD980550594

According to Part III, Section G of the Hazardous Waste Storage and Treatment Permit No. PAD980550594, Sunoco shall construct and maintain the containment system as required by 25 Pa Code § 75.264(q)(10)-(12). According to 25 Pa. Code § 75.264(q)(10)(i) [now 25 PA § 264.175] (40 C.F.R. § 264.175), Sunoco shall store hazardous waste in the greater than 90-day storage area on a base free of cracks or gaps or sufficiently impervious to contain leaks, spills, and any accumulated precipitation.

At the time of the inspection on September 22, 1999, an 8 feet long crack was observed by the EPA inspector at the greater than 90-day storage area. According to Sunoco's NOV response, 650 linear feet of cracks on the pad were fixed after the inspection² (See Document No. 8). SUNOCO was storing containers of hazardous waste in this storage area on a base that was not free of cracks to contain leaks spills, and any accumulated precipitation. Evidence: See page 3, and Photo No. 15 of Document No. 1 and page 1 of Document No. 8.

SUNOCO violated the Containment requirements under Part III, Section G of the Hazardous Waste Storage and Treatment Permit No. PAD980550594 by failing to comply with 25 Pa. Code § 75.264(q)(10)(i) [now 25 PA § 264.175] (40 C.F.R. § 262.175).

¹ The proposal cost to fix the fence was \$10,900 dollars (Document No. 8).

² The cost to fix the floor cracks was \$5,664.00 dollars (Document No. 8)

3. Violation of Permit Requirements - Management of containers requirements - Hazardous Waste Storage and Treatment Permit No. PAD980550594.

According to Part III, Section F of the Hazardous Waste Storage and Treatment Permit No. PAD980550594, Sunoco shall manage containers as required by 25 Pa Code § 75.264(q)(3) and (4). According to the above-mentioned state regulations, a container holding hazardous waste shall always be closed during storage, except when it is necessary to add or remove waste, and shall not be opened, handle, or stored in a manner which may rupture the container or cause it to leak.

At the time of the inspection on September 22, 1999, seventeen (17) 55-gallon containers of spent carbon were observed by the EPA inspector at the less than a year RCRA storage area. According to the facility they were hazardous waste for benzene (D018). According to the EPA inspector all the containers were labeled and the dates ranged from July to September 1999. Each of the containers had two openings in the top where the container was connected to the equipment. The EPA inspector observed seven (7) of the above-mentioned seventeen (17)³ containers without the caps. According to Sunoco's NOV response (See Document No. 8), at the time of the RCRA inspection fifteen (15) drums containing carbon were present at the RCRA storage area, twelve (12) contained spent carbon and three (3) of which were unused activated carbon drums. The 15 drums containing the carbon were sent to Envirotrol, Inc in Darlington, Pennsylvania as hazardous waste under the waste code D018 (see Document No. 9, page 5, Manifest No. PAE 1024391). Two (2) additional 55-gallon drums containing arsenic contaminated catalyst D004 were stored on the pad. Failure to keep containers of hazardous waste closed is a violation of 25 Pa. Code § 75.264(q)(2) [now 25 PA § 264.172] (40 C.F.R. § 264.173(a)). Evidence: See page 3, and Photo Nos. 9 to 11 of Document No. 1 and page 1 of Document No. 9 and page 5 of Document No. 9 (Manifest No. PAE 1024391).

By violating the requirement to keep hazardous waste containers closed, Sunoco violated the use and management of containers requirements by failing to comply with 25 Pa. Code § 75.264(q)(2) [now 25 PA § 264.172] (40 C.F.R. § 264.173(a)) and Part III, Section F of the Hazardous Waste Storage and Treatment Permit No. PAD980550594.

³According to Document No. 12, Weekly Inspection Report of the Active area 17 55-gallon spent carbon drums were stored at the active area.

4. **Accumulation requirements - 25 Pa. Code § 75.262(g) [now 25 PA § 262.34] 40 C.F.R. § 262.34(a)(2)**

According to state regulations under 25 Pa. Code § 75.262(g)(1) and federal regulations under 40 C.F.R. § 262.34(a)(2). A generator may accumulate hazardous waste on-site for 90 days or less, without a permit or without having interim status, provided that, among other requirements, the waste is placed in containers which meet all United States Department of Transportation packaging, marking, and labeling requirements of 25 Pa. Code § 75.262(f) or the pretransport requirements, packing, labeling, marking, and placarding section. Also, the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container according to 25 Pa. Code § 75.262(g)(1)(iv) [now 25 PA § 262.34] 40 C.F.R. § 262.34(a)(2).

At the time of the inspection the inspector visited the Auto Lab where the facility runs their QA/QC samples. This area is not included in the permit to store hazardous wastes and is not a less than 90-day storage area. The facility claims that they operate a satellite accumulation area at the Auto Lab. The EPA inspector observed two blue 5-gallon pails at the Auto Lab area without hazardous waste label and the date upon which each period of accumulation begins, and two other pails, one empty and the other without hazardous waste⁴, see Photo No. 22 (Document No. 1). The waste in the two blue 5-gallon pails was managed by Sunoco as hazardous waste, waste codes D039 (Tetrachloroethylene) and D022 (Chloroform), based on generator knowledge of the solvents used in the lab. The blue 5-gallon pails contained spent chlorinated solvents generated in the lab product testing, see Document No. 9, page 2. According to Manifest No. NJA 2988939, the two blue 5-gallon pails were sent to Cycle Chem, Inc. located in Elizabeth, New Jersey. According to Sunoco the pails were located at the satellite accumulation area. According to Photo No. 22, this area is the building corridor, not the point of generation and out of the control of the operator. Evidence: See page 3, and Photo No. 15 of Document No. 1 and page 1 of Document No. 9 and page 7 of Document No. 9 (Manifest No. NJA 2988939).

Sunoco failed to label or mark each container in accordance with the United States Department of Transportation labeling requirements of a hazardous waste container according to 25 Pa. Code § 75.262(f)(1)(ii) and (iii) [now 25 PA § 262.34] 40 C.F.R. § 262.34(a)(2). Also, to mark an accumulation start date on these two hazardous waste containers according to 25 Pa. Code § 75.262(g)(1)(iv) [now 25 PA § 262.34] 40 C.F.R. § 262.34(a)(2).

By not complying with the labeling and accumulation start date requirements on those two hazardous waste containers, Sunoco violated the Accumulation requirements set forth in 25 Pa. Code § 75.262(g)(1) [now 25 PA § 262.34] 40 C.F.R. § 262.34(a)(2).

⁴Concerning the two containers, one was a blue pail without cover and empty, the other a metal pail and did not contain hazardous waste (Document No. 9, page 2).

V. Gravity Based Penalty Calculations:

1. Violation of Permit Requirements - Security Requirements -Hazardous Waste Storage and Treatment Permit No. PAD980550594

Regulations: Part II, Section C of the Hazardous Waste Storage and Treatment Permit No. PAD980550594 and 25 Pa. § 75.264(d)(2) [now 25 PA § 264.14] (40 C.F.R. § 264.14(b)(2)(i).

Evidence: Page 3 and Photos Nos. 6 and 8 of Document No. 1, page 1 of Document No. 8

A. Explanation of Proposed Penalty

Gravity-Based Penalty Component: The “potential for harm” associated with Respondent’s violations of the Security permit requirements is “moderate.” Respondent’s failure to comply with the one of the Sunoco permitting requirements of RCRA and the authorized Pennsylvania Regulations Governing Hazardous Waste presents significant potential to harm human health, the environment, and the integrity of the RCRA program. The permitting process is the backbone of the RCRA program and ensures that facilities that manage hazardous wastes have established appropriate facilities, plans and procedures for handling hazardous waste in a manner that minimizes their risk to human health and the environment. Respondent’s failure to manage the permit is evidence that the facility was not following those practices and procedures required by RCRA for the safe management and handling of the active area hazardous waste, thereby posing a significant risk to human health and the environment. In this instance, the failure to adhere to the conditions from the permit requirements were associated with Respondent’s failure to properly fix the fence around the hazardous waste storage area. Some of hazardous wastes stored by Respondent were listed wastes, which are wastes from generic industrial processes, wastes from certain sector of industry, and unused pure chemical products and formulation, and are dangerous enough to warrant full subtitle C regulation based on their origin. Also, the concern that an unauthorized personnel could gain access to the active area and be exposed to hazardous wastes stored at the permitted hazardous storage area. The failure to implement hazardous waste storage permit conditions in a consistent manner had the potential to present significant risks to human and the environment.

In this case, the “extent of deviation” is “minor.” Respondent failed to adhere to the permit requirements of Part II, Section C of the Hazardous Waste Storage and Treatment Permit No. PAD980550594, on September 22, 1999. Respondent failed to repair approximately 30 feet of the fence surrounding the active area had been knocked down at the greater than 90-day storage area. After the inspection the facility preceded to fix 492 linear feet of the fence at a cost of \$10,900 dollars. The cost per linear foot was approximately \$22 dollars, for a cost of \$665 dollars for the 30 feet of fence observed by the inspector knocked down.